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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,080	01/31/2002	Simon Pelly	1509-272	5292

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EXAMINER

TRUONG, LECHI

ART UNIT PAPER NUMBER

2126

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/060,080

Applicant(s)

SIMON PELLY

Examiner

LeChi Truong

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-13 are presented for the examination.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-3 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.

Claim 1 is directed to method step, which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps. Moreover, each of the claimed steps, inter alia, providing, adjusting and computing, can be practiced mentally in conjunctions with pen and paper. The claimed steps do not define a machine or computer implemented process (see MPEP 21061). Therefore, the claimed invention is directed to non-statutory subject matter. (The examiner suggests applicant to change "method" to "computer implemented method" in the preamble to overcome the outstanding 35 U.S.C. 101 rejection).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2126

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 5, 7-9, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (US. Patent 6,493,772 B1).

4. As to claim 1, Hughes teaches the invention substantially as claimed including: a peripheral device (device controller 40 to one or more disk storage device, col 1, ln 20-24), a SCSI protocol (SCSI refers to the command and communication protocol, col 1, ln 33-35), a SCSI write/read signal, col SCSI read/write commands( col 8, ln 53-55), a SCSI inquiry signal (command for example inquiry, col 8, ln 61-65), receiving a SCI command write/read signal, receiving a SCSI inquiry signal (col 8, ln 60-65), initiating a response to the SCSI inquiry signal by the peripheral device for predetermined time period in response to receipt of the received SCSI command write/read signal and the received SCSI inquiry signal( col 8, ln 61-67/ col 7, ln 5-10/col 9, ln 32-38). Hughes does not explicit teach delaying. However, Hughes teaches delaying( determine whether any I/O process in I/O process monitor queue require a status to be sent to the host system, col 9, ln 35-39/ data transfer must wait until on-board cache becomes available from I/O processes, col 11, ln 60-55). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to apply the teaching of Hughes because Hughes's delaying would guarantee that a status corresponding to a command initiated by a host system is sent to the host system within a maximum command response time.

Art Unit: 2126

5. As to claim 2, Hughes teaches setting a delay timer and entering a delay mode for delaying said peripheral device initiating a response to said SCSI inquiry signal (col 9, ln 2-6), said delay mode set to extend for said pre-determined time period (col 4, ln 19-25/ col 5, ln 48-53/ col 7, ln 5-11).

6. As to claim 4, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Hughes teaches a tape drive (disk drive, col 1, ln 20-23), removable tape data storage media for storage of data (col 5, ln 39-41), at least one buffer memory adapted to temporarily store data to be read and written from or to tape data storage media (col 2, ln 15-18/ and col 1, ln 24-27).

7. As to claim 5, it is an apparatus claim of claim 2; therefore, it is rejected for the same reason as claim 2 above.

8. As to claim 7, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Hughes teaches driver (the device controller, col 1, ln 15-22/ Fig. 1/ col 4, ln 6-11/ and ln 18-21), a delay timer to measure a predetermined time period (col 9, ln 2-6).

9. As to claim 8, it is an apparatus claim of claim 2; therefore, it is rejected for the same reason as claim 2 above.

10. As to claim 9, Hughes teaches driver is adapted to delay sending a response to said SCSI inquiry signal when in said delay mode (col 9, ln 2-6/ ln 33-39/ col 10, ln 60-65).

11. As to claims 12, 13, they are apparatus claims of claims 1 and 7; therefore, they are rejected for the same reasons as claims 1 and 7 above.

Art Unit: 2126

12. Claims **3, 6, 10, 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (US. Patent 6,493,772 B1) in view of Latif et al (US. Patent 5,613,076).

13. As to **claim 3**, Hughes teaches performing a data transfer procedure after passage of the predetermined time period (col 11, ln 50-55).

14. Hughes does not teach performing an arbitrary host selection. However, Latif teaches performing an arbitrary host selection (during repeated arbitration phases... allows all target device to reselected the host device, col 4, ln 61-66).

15. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Hughes and Latif because Latif's performing an arbitrary host selection would allow a uniform distribution of I/O tasks of all devices equally access to the SCSI bus without decreasing the utilization of the bus.

16. As to **claims 6, 10**, they are apparatus claims of claim 3; therefore, they are rejected for the same reason as claim 3 above.

17. As to **claim 11**, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Latif teaches initiate arbitration by target computer entity (col 3, ln 25-27), select the host computer (col 4, ln 61-66), bus free period (col 3, ln 24-26/ Fig. 2).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is ( 571) 272 3767. The examiner can normally be reached on 8 - 5.


Art Unit: 2126

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

February 22, 2005

  
**MENG-AL T. AN**  
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